

**DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS NUMBER: 02-0539P
Sales Taxes
For Periods Ended May 31, 2002 and June 30, 2002**

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ISSUE(S)

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

II. **Tax Administration** – Interest

Authority: IC 6-8.1-10.1

Taxpayer protests the interest assessed.

STATEMENT OF FACTS

Taxpayer was assessed a late filing penalty for May 31, 2002 and June 30, 2002. Taxpayer protests the penalty and interest assessed because the company went through a turbulent period. It closed its office to relocate to another city and the turnover in the accounting department reached one hundred percent. In the past two months, it has had three controllers, so previously well-defined routines were disrupted.

Taxpayer filed its May 2002 return on June 21, 2002 and its June 2002 return on August 22, 2002.

I. **Tax Administration** – Penalty

DISCUSSION

Taxpayer protests the penalty assessed and states that it has an unblemished record in filing tax returns and paying tax. Taxpayer further states that it went through a turbulent period, culminating in the closure of its locations and moving to new corporate offices in Indianapolis.

45 IAC 15-11-2(b) states, “Negligence, on behalf of the taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer’s carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer.”

Taxpayer has a responsibility to remit tax collected and should have had procedures in place to assure that the returns are timely filed and the tax timely paid. Taxpayer filed the May and June taxes late and has not provided reasonable cause to allow the department to waive the penalty.

FINDING

Taxpayer’s protest is denied.

II. Tax Administration – Interest

DISCUSSION

Taxpayer protests the interest assessed, however, the Department has no authority to waive interest.

FINDING

Taxpayer’s protest is denied.

CONCLUSION

Taxpayer’s protest is denied for issues I and II.